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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DARWIN MITCHEL HANKS

Appeal 2009-009487
Application 10/661,752
Technology Center 2627

Before THOMAS S. HAHN, ELENI MANTIS MERCADER,
and CARL W. WHITEHEAD, JR., *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

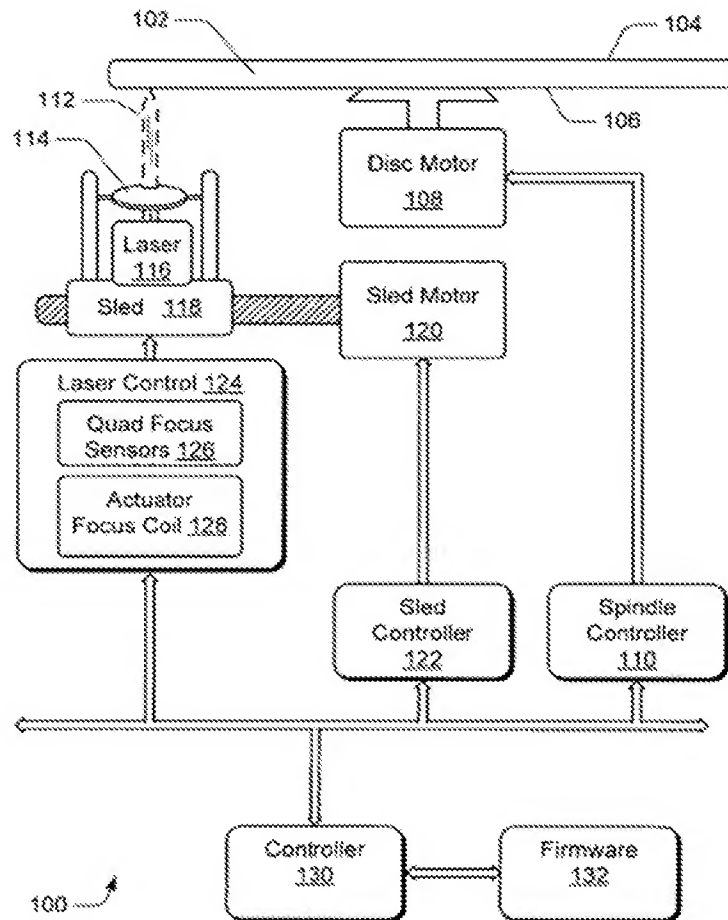
STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the non-final rejection of claims 1-5, 9, 11, 13-18, 23, 25-29, 34-39, 43, and 45-48. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

Appellant's Figure 1 is reproduced below:



Appellant's Figure 1 and claimed invention are directed to a system and method of focusing the laser 116 and optics 114 pickup unit on a label

side 106 of an optical disk 102 using a baseline actuator positioning routine (See Fig. 1; Spec. ¶¶ [0017], [0021]). The baseline actuator positioning routine better positions the laser and optics in focus on the label side surface 106 of the disk 102 when in an at-rest position (See Fig. 1; Spec. ¶¶ [0017], [0021]).

A baseline actuator positioning routine is configured to move the optics 114 through a full range of focus, i.e. from focusing too near to focusing too far away (Spec. ¶ [0023]). The baseline actuator positioning routine 210 is configured to step the actuator coil 128 through this range incrementally, and to record values to determine the position where the optics are in focus which is used to set the baseline voltage level (Spec. ¶ [0023]).

The invention overcomes the problem of the laser and optics being out of focus on the label side of the disk when in an at-rest position. This is because in conventional techniques, when in the at-rest position, the laser is focused on a layer inside the disk, not focused near the label side surface of the disk (Spec. ¶¶ [0005], [0021]).

Claim 45, reproduced below, is representative of the subject matter on appeal (emphases added):

45. A system for establishing a baseline signal for application to an actuator within an optical disk drive to focus optics on an optical disk within the optical disk drive, the system comprising a baseline actuator positioning routine configured to:

- apply actuator control signals to the actuator to *step the actuator through a full range of focus*;
- obtain a SUM signal at each step, the SUM signal being a sum of signals received from a plurality of focus sensors;
- identify one of the obtained SUM signals; and

set the baseline actuator control signal according an applied actuator control signal which resulted in the identified one of the obtained SUM signals.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Fennema	US 5,164,932	Nov. 17, 1992
Shoda	US 5,477,333	Dec. 19, 1995
Hajjar	US 5,742,573	Apr. 21, 1998
Tsutsui	US 5,808,983	Sep. 15, 1998
Faucett	US 2002/0089906 A1	Jul. 11, 2002
Kusumoto	US 2002/0105865 A1	Aug. 8, 2002

The following rejections are before us for review:

1. The Examiner rejected claims 45-48 under 35 U.S.C. § 103(a) as being unpatentable over Tsutsui in view of Kusumoto.
2. The Examiner rejected claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Tsutsui in view of Kusumoto and in further view of Fennema.
3. The Examiner rejected claims 1, 4, 5, 11, 14, 17, 18, 23, 25, 28, 29, 35, 38, 39, and 43 under 35 U.S.C. § 103(a) as being unpatentable over Hajjar in view of Tsutsui and in further view of Kusumoto.
4. The Examiner rejected claims 2, 3, 15, 16, 26, 27, 36, and 37 under 35 U.S.C. § 103(a) as being unpatentable over Hajjar in view of Tsutsui and Kusumoto and in further view of Shoda.

5. The Examiner rejected claims 1, 4, 9, 14, 17, 25, 28, 34, 35, and 38 under 35 U.S.C. § 103(a) as being unpatentable over Faucett in view of Tsutsui and in further view of Kusumoto.

ISSUE

The pivotal issue is whether the Examiner erred in determining that Tsutsui teaches or suggests the limitation of “apply actuator control signals to the actuator to *step the actuator through a full range of focus*” as recited in claim 45 (emphasis added).

FINDINGS OF FACT

The following Findings of Fact (FF) are supported by a preponderance of the evidence:

1. Tsutsui teaches varying the offset signal to move the focus of optics from a focus offset S_0 to S_n across a layer (col. 10, ll. 39-49; Figs. 7, 21; col. 5, ll. 53-59).

2. The Specification states that “[t]he baseline actuator positioning routine 210 is configured to move the optics 114 through a full range of focus, i.e. from focusing too near to focusing too far away” (¶ [0023]).

PRINCIPLES OF LAW

“[T]he words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (citation omitted).

The claims, of course, do not stand alone. Rather, they are part of “a fully integrated written instrument” consisting principally of a specification that concludes with the claims.

For that reason, claims “must be read in view of the specification, of which they are a part.” . . . [T]he specification “is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.”

Id. at 1315 (citations omitted).

Although claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993).

ANALYSIS

Does Tsutsui teach or suggest the limitation of “apply actuator control signals to the actuator to step the actuator through a full range of focus” as recited in claim 45?

Appellant argues that the claim 45 limitation of “full range of focus” means that “the full range of focus extends from one end-p[oint] within the disk to another end-p[oint] out-side the disk” (Reply Br. 4; *see* App. Br. 7-8). Appellant contends this claim interpretation is supported by the Specification paragraph [0023] because

the optics can focus on a layer within the disk and on the surface of the disk, stepping the actuator through a full range of focus at least includes stepping the actuator from one end-point at which the optics are focused on an internal layer to another end-point at which the optics are on a position above the surface of the disk.

(Reply Br. 3-4; *see also* App. Br. 7-8).

Appellant argues that Tsutsui discloses stepping the focus of the optical head about a particular layer of an optical disk which is different from Appellant’s interpretation of the limitation of “full range of focus” wherein the “entire range the optics can move” (Reply Br. 4-5). Appellant

contends that Tsutsui steps the focus through one layer as opposed to Appellant's several layers (Reply Br. 5).

We do not agree with Appellant's arguments. The Examiner reasons and we agree that Tsutsui's method meets the limitation at issue because Tsutsui moves through a "full range of focus" for that particular layer of the disk (Ans. 17-18; FF 1). The Specification paragraph [0023] describes "mov[ing] the optics 114 through a full range of focus, i.e. from focusing too near to focusing too far away" (FF 2). The Examiner reasons that Tsutsui meets the claim limitation as interpreted in light of the Specification paragraph [0023] when Tsutsui focuses too near the layer (i.e., focused on one edge of the layer, S_0 in Fig. 7), then moves through a series of offsets until it is focused too far away from the layer (i.e., focused on other edge of the layer, S_n in Fig. 7) (Ans. 20; FF 1) thus demonstrating a full range of focus. *See Phillips*, 415 F.3d at 1312, 1315.

We also do not agree with Appellant's argument (Reply Br. 3-4; *see also* App. Br. 7-8) that "full range of focus" requires focusing from an internal layer and extending to a position beyond the surface of the disk. Appellant's arguments are not commensurate with the scope of the claims. The limitation at issue does not recite focusing from an internal layer to a position above the surface of the disk, as argued (Reply Br. 3-4), and limitations from the specification are not read into the claims. *Van Geuns*, 988 F.2d at 1184.

We also do not agree with Appellant's arguments for a second interpretation of "full range of focus" that is synonymous to the full range that the optics can move (Reply Br. 4). Appellant's argument is not commensurate with the claim scope because the claim merely recites "full

range of focus.” Furthermore, there is no support in the Specification for such an interpretation (Ans. 18).

Thus, we will sustain the Examiner’s rejection of claim 45 and of independent claims 46-48 that recite similar limitations as claim 45. We will also sustain the Examiner’s rejection of dependent claims 1-5, 9, 11, 13-18, 23, 25-29, 34-39, and 43 which depend from and fall with independent claims 45-48 as no additional arguments of patentability were presented with respect to these claims. *See In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987).

CONCLUSION

The Examiner did not err in determining that Tsutsui teaches or suggests the limitation of “apply actuator control signals to the actuator to *step the actuator through a full range of focus*” as recited in claim 45 (emphasis added).

ORDER

The decision of the Examiner to reject claims 1-5, 9, 11, 13-18, 23, 25-29, 34-39, 43, and 45-48 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

babc